IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 309 OF 2004

G.H. Khatri ...Applicant

Versus

The Chief Engineer, Maharashtra Health Systems Development Project (MHSDP) & Anr. ...Respondents

Mr. U.S. Samudrala for the Applicant

Ms. Geeta Shastri for Respondent No. 1

Mr. L.M. Acharaya for Respondent No. 2.

CORAM: DALVEER BHANDARI, C.J.
DATE: JULY 13, 2005.

P.C.

1. The learned counsel for the respondents submit that the Arbitral Tribunal has already been constituted, and the following three issues, Issue Nos. 1, 2 and 3, be also referred to the same Tribunal:-

> "9. Issue No. 1: Quantity of reinforcement TMT steel executed and paid up to 21st R.A. Bill on 23/04/2004 was 606.231 MT. Cost difference between Rs.18,000.00/MT and

Rs.32,000.00/MT works out to be Rs.14,000.00/MT. Total amount which becomes payable to the Claimant is Rs.84,87,234.00 towards cost difference due to abnormal increase in the market. Claimant (applicant herein), therefore, requests you to reimburse Rs.84,87,234.00 to enable him to maintain the rate of progress at site.

10. Issue No. 2: About 400 MT reinforcement TMT steel is still required to be purchased by the Claimant from the open market to complete the balance work. Claimant requests you to reimburse the cost difference on the basis of quantity consumed by him to each bill to enable him in each stage of bill between Rs.18,000.00/MT and purchase cost from the market, which at present is Rs.32,000.00/M.T.

11. Issue No. 3: Closure of contract

In case you are unable to reimburse the increase in cost of steel, Claimant earnest requests you to close the contract as it is on this date under the relevant provision of

the contract agreement."

The learned counsel for the applicant has no objection. I request the Tribunal to adjudicate these issues also.

2. This application is accordingly disposed of.

CHIEF JUSTICE